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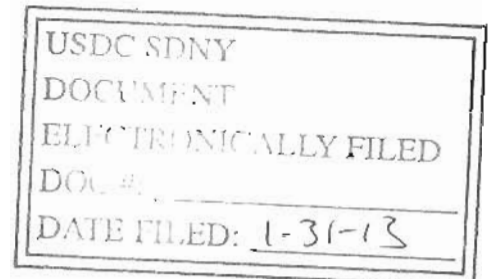
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January 31, 2013

BY E-MAIL

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The Honorable Paul A. Crotty
United States District Judge
Daniel Patrick Moynihan United States
Courthouse
500 Pearl Street
New York, NY 10007-1312



Re: Kellner, et al. v. U.S. Army Corps of Engineers, et
al., 12 Civ. 8458 (PAC)

Residents for Sane Trash Solutions, Inc., et al. v.
U.S. Army Corps of Engineers, et al., 12 Civ. 8456
(PAC)

Dear Judge Crotty:

This law firm represents the plaintiffs in *Kellner*. We are in receipt of (1) the answer e-filed in this case by Assistant United States Attorney Christopher Connolly on behalf of defendant U.S. Army Corps of Engineers and the commander of its New York district on January 31, 2013, and (2) the January 28, 2013 letter from Assistant Corporation Counsel Carrie Noteboom requesting a pre-motion conference for a proposed motion by the City defendants to dismiss, pursuant to Rule 12(b)(6), Fed. R. Civ. P., those claims in both *Kellner* and *Residents for Sane Trash Solutions* ("RSTS") that are asserted only against the City defendants.

Under Rule 15(a)(1)(B), Fed. R. Civ. P., the Corps' answer triggers a 21-day period in which plaintiffs are entitled to amend their complaint "as a matter of course" if they have not previously amended their complaint. Plaintiffs in this action have not previously amended their complaint, and therefore may do so within the 21-day period that ends on February 19, 2013. Plaintiffs have decided to avail themselves of this right, and to e-file an

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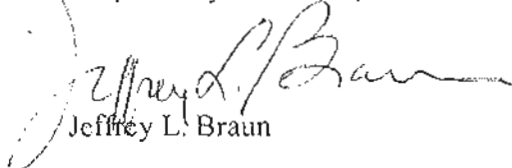
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amended complaint by that date. We understand that the plaintiffs in *RSTS* also intend to amend their complaint.

We therefore suggest that the Court not take any action at this time on the letter submitted by Ms. Noteboom. Once the amended complaint has been e-filed in *Kellner*, if the City defendants wish to make a motion addressed to it and so advise the Court and us, we would be pleased to respond to defendants' contentions by letter at that time.

On the other hand, if the Court wishes us to respond now to the substance of Ms. Noteboom's letter, please so advise me, and we will do so promptly.

Respectfully submitted,



Jeffrey L. Braun

JLB:tim

cc: Christopher K. Connolly, Esq.
Carrie Noteboom, Esq.
Albert K. Butzel, Esq.
Charles C. Platt, Esq.